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09/714,035	11/16/2000	Thomas Cast	2000-0474A	5225

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EXAMINER
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D AGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 08/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/714,035

Applicant(s)

CAST ET AL.

Examiner

Stephen M. D'Agosta

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-26 is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-13, 15 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 8, 14, 16 and 20-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

The disclosure is objected to because of the following informalities: Pertinent information regarding a related application is blank/missing (see page 1, Cross Reference to Related Applications). **Appropriate correction is required.**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 2, 9-10 and 17** rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al. US 6,263,212 in view of Rune US 6,434,396 (hereafter Ross, Blonder and Rune).

As per **claims 1, 9 and 17**, both Ross (figures 1 and 2) and the applicant's specification (figure 1 and page 2, L19-24 and page 3, L3-24) teach a method of delivering a message from a message source to a receiving device through a gateway communicating with a plurality of message centers comprising:

Transmitting a message from the source to the gateway, the message being associated with a service type (C3, L15-52)

Determining a routing method based on service type (C11, L30-67 to C12, L1-7)

Routing the message to one of the plurality of messaging centers according to the routing method (C11, L30-36).

***With further regard to claim 17, Ross is silent on:***

- mobile device terminated messages

The examiner also points out that Quality of Service is well known in the art and involves the ability to sense congestion and adapt communication flows and routing paths based upon it.

Rune teaches minimizing setup delay for a mobile terminated message (abstract) which can be interpreted as providing QoS since service is improved.

It would have been obvious to one skilled in the art at the time of the invention to modify Ross, such that service type is used for messages/terminated messages, to provide "quality of service" for data transmission.

As per **claims 2 and 10**, both Ross (figures 1 and 2) and the applicant's specification (figure 1, #135-136 and page 2, L19-24 and page 3, L3-24) teach claim 1/9 wherein the message source device is one of a plurality of different source devices that communicate with the gateway using a single interface protocol (C4, L54-67 teaches SMPP – per applicant's spec. which teaches single logical interface being SMPP, page 4, L12-15).

**Claims 3-7, 11-13, 15 and 18** rejected under 35 U.S.C. 103(a) as being unpatentable over Ross/Rune in view of Blonder US 5,946,299, Hult et al. US 5,822,700, Astrom US 5,579,372 and Stein et al. US 6,289,212 (hereafter Blonder Hult, Astrom and Stein).

As per **claims 3, 6-7 and 11**, both Ross (figures 1 and 2) and the applicant's specification (figure 1 and page 2, L19-24 and page 3, L3-24) teach claim 2 **but is silent on** wherein the routing method is selected from a group consisting of message center specific, load balancing, MDN range, equal allocation and ESN.

***With further regard to claims 6-7***, Ross is silent on MDN range routing routes message based on MDN range of destination address.

***With further regard to claim 11***, Ross is silent on message receiving device specific, IP Address and destination address.

Ross does teach flow control for outbound (eg. Message Center to Mobile Unit) flow control (C9, L45-67) whereby a server runs multiple parallel processes capable of

handling processing of SMS message (which reads on load balancing and equal allocation).

Blonder teaches determining if a primary server is congested and routing a packet/message to an alternate server along with a "rejected message" which reads on "rejecting some/all messages received at gateway for primary message center (Abstract).

Various other embodiments exist to perform similar functions:

- Hult teaches flow control of SMS messages in a cell network (title).
- Astrom teaches flow control during busy conditions (title and abstract)
- Stein teaches email/text services during network unavailability (abstract).

The examiner also takes **Official Notice** that flow control (and/or Quality of Service) is well known in the art and involves the ability to sense congestion and adapt communication flows based upon it (ie. increase bandwidth, use alternate routes, use alternate hardware, etc.). Hence one skilled in the art would also use other methods such as specific message center, MDN range and ESN. ***MDN, service type, IP Addressing and destination address for message delivery is also known in the art and would be used to optimally route messages in QoS-capable networks (ie. best path, closest SMSC, service-level of user/message, etc.).***

It would have been obvious to one skilled in the art at the time of the invention to modify Ross, such that various routing methods can be selected and routes based upon MDN, IP address, Destination Address, to provide optimal QoS data transmission depending upon the environment and user needs.

As per **claims 4 and 12**, both Ross (figures 1 and 2) and the applicant's specification (figure 1 and page 2, L19-24 and page 3, L3-24) teach claim 3/11 **but is silent on** wherein the message center specific routing method routes all messages for the service type of the routed message to a specific messaging center.

***With further regard to claim 12***, Ross is **silent on** routing all messages for the service type to a specific receiving device.

The examiner interprets this limitation as relating to QoS and takes **Official Notice** that flow control/QoS is well known in the art and involves the ability to sense congestion and adapt communication flows based upon it. Hence, the examiner interprets this limitation, for example, as routing a high priority message to the closest message center (receiving device) OR to a message center (receiving device) that has the least congestion.

Blonder teaches determining if a primary server is congested and routing a packet/message to an alternate server along with a "rejected message" (Abstract).

It would have been obvious to one skilled in the art at the time of the invention to modify Ross, such that the routing method routes messages to a specific message center based on service type, to provide means for optimal QoS data transmission based on service type.

As per **claims 5 and 13**, both Ross (figures 1 and 2) and the applicant's specification (figure 1 and page 2, L19-24 and page 3, L3-24) teach claim 3/11 **but is silent on** wherein load balancing routing method routes messages to a group of message centers based on load capabilities of each message center in the group of message centers.

***With further regard to claim 13***, Ross is silent on routing based on load capabilities of each receiving device.

The examiner interprets this limitation as relating to QoS and takes **Official Notice** that flow control/QoS is well known in the art and involves the ability to sense congestion and adapt communication flows based upon it. Hence, the examiner interprets this limitation, for example, as either routing messages to high-performance servers/receivers first OR routing to a secondary system/receiver that has the least congestion.

Blonder teaches determining if a primary server is congested and routing a packet/message to an alternate server along with a "rejected message" (Abstract).

It would have been obvious to one skilled in the art at the time of the invention to modify Ross, such that the load balancing routes messages to message center(s)

based upon load capabilities, to provide means for optimal QoS data transmission based on performance.

As per **claim 15**, both Ross (figures 1 and 2) and the applicant's specification (figure 1 and page 2, L19-24 and page 3, L3-24) teach claim 11 **but is silent on** wherein the IP address routing method routes the message to a destination based on IP address contained in a destination address parameter.

Ross does teach a multi-protocol interface that supports commonly known protocols such as SMPP, TAP, SMTP, TCP/TME and SS7 (C4, L60-67 to C5, L1-7). Internet Protocol (IP) is a commonly known protocol used in data communications.

The examiner takes **Official Notice** that IP Addressing provides sender and receiver information in each data packet.

It would have been obvious to one skilled in the art at the time of the invention to modify Ross, such that routing is based on destination IP address, to provide optimal routing via a commonly used protocol.

As per **claim 18**, both Ross (figures 1 and 2) and the applicant's specification (figure 1 and page 2, L19-24 and page 3, L3-24) teach claim 17 **but is silent on** invoking the routing method only if a throttle control limit is not exceeded.

Ross does teach flow control (throttling) for outbound flow control (C9, L45-67).

Blonder teaches determining if a primary server is congested and routing a packet/message to an alternate server along with a "rejected message" which reads on "rejecting some/all messages received at gateway for primary message center (Abstract).

Various other embodiments exist to perform similar functions:

- Hult teaches flow control of SMS messages in a cell network (title).
- Astrom teaches flow control during busy conditions (title and abstract)
- Stein teaches email/text services during network unavailability (abstract).

The examiner also takes **Official Notice** that throttling/QoS is well known in the art and involves the ability to sense congestion and adapt communication flows based

Art Unit: 2684

upon it. Hence one skilled in the art would provide QoS depending upon various issues occurring (or not occurring) in the network (eg. if throttle control limit is exceeded or not).

It would have been obvious to one skilled in the art at the time of the invention to modify Ross, such that various routing methods can be invoked if the throttle limit is/is not exceeded, to provide optimal QoS data transmission depending upon the environment and user's specific needs.

**Claim 19** rejected under 35 U.S.C. 103(a) as being unpatentable over Ross/Rune/Hult/Astrom/Stein in view of McCormick et al. US 6,421,709 (hereafter McCormick).

As per **claim 19** both Ross (figures 1 and 2) and the applicant's specification (figure 1 and page 2, L19-24 and page 3, L3-24) teach claim 17 **but is silent on** invoking the routing method only if an anti-spamming check returns an allowed status.

McCormick teaches an email/message filter (title) that filters junk messages (abstract, figure 8). One skilled in the art would provide for a check of spam messages since they can congest communication links and message queues.

It would have been obvious to one skilled in the art at the time of the invention to modify Ross, such that a routing method is invoked if an anti-spamming check returns an allowed status, to provide means for the QoS control that checks for spam messages.



Art Unit: 2684

***Allowable Subject Matter***

**Claims 24-26 allowed:** Ross does not teach the detailed list of procedures in the sequential order shown (C25-26 depend upon C24).

**Claims 8, 14, 16 and 20-23** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

- Claim 8 and 14: Ross does not teach equal allocation routing of messages to a group of SMSC's based on sequentially sending messages to each message center in the group of SMSC's such that each message center in the group receives an equal number of messages.
- Claim 16: Ross does not teach destination address routing method routes the message to a destination receiving device based on a value of a destination parameter.
- Claims 20-23: Ross does not teach the SMSC receiving the message and responding to the gateway that the message was received (C21-23 depend upon C20).

***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

1. Lorello et al. US 6,459,904 teaches SMS between multiple MSC's
  2. Gleason US 5,96,63 teaches messages and messaging centers.
  3. Tett US 5,635,918 teaches message delivery in wireless devices.
  4. Sriram US 5,463,620 teaches bandwidth allocation & congestion avoidance.
- Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 703-308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist on 703-306-0377.

SMD   
1-29-03

  
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